IC 34-18-3

Chapter 3. Need to Qualify; Qualification Procedure

IC 34-18-3-1

Application of article

Sec. 1. A health care provider who fails to qualify under this article is not covered by this article and is subject to liability under the law without regard to this article. If a health care provider does not qualify, the patient's remedy is not affected by this article.

As added by P.L.1-1998, SEC.13.

IC 34-18-3-2

Qualifications; proof of financial responsibility

Sec. 2. For a health care provider to be qualified under this article, the health care provider or the health care provider's insurance carrier shall:

(1) cause to be filed with the commissioner proof of financial responsibility established under IC 34-18-4; and

(2) pay the surcharge assessed on all health care providers under IC 34-18-5.

As added by P.L.1-1998, SEC.13.

IC 34-18-3-3

Qualification of officers, agents, and employees of health care providers

Sec. 3. The officers, agents, and employees of a health care provider, while acting in the course and scope of their employment, may be qualified under this chapter if the following conditions are met:

(1) The officers, agents, and employees are individually named or are members of a named class in the proof of financial responsibility filed by the health care provider under IC 34-18-4.

(2) The surcharge assessed under IC 34-18-5 is paid.

As added by P.L.1-1998, SEC.13.

IC 34-18-3-4

Claims against governmental entities and employees

Sec. 4. (a) As used in this section, "employee of a governmental entity" has the meaning set forth in IC 34-6-2-38.

(b) As used in this section, "governmental entity" has the meaning set forth in IC 34-6-2-49.

(c) A claim against a governmental entity or an employee of a governmental entity based on an occurrence of malpractice is governed exclusively by this article if the governmental entity or employee is qualified under this article.

As added by P.L.1-1998, SEC.13.

IC 34-18-3-5

Receipt of proof of financial responsibility and surcharge;

timeliness of compliance; penalties

Sec. 5. (a) Except as provided in subsection (b), the receipt of proof of financial responsibility and the surcharge constitutes compliance with section 2 of this chapter:

(1) as of the date on which they are received; or

(2) as of the effective date of the policy;

if this proof is filed with and the surcharge paid to the department of insurance not later than ninety (90) days after the effective date of the insurance policy.

(b) If an insurer files proof of financial responsibility and makes payment of the surcharge to the department of insurance at least ninety-one (91) days but not more than one hundred eighty (180) days after the policy effective date, the health care provider is in compliance with section 2 of this chapter if the insurer demonstrates to the satisfaction of the commissioner that the insurer:

(1) received the premium and surcharge in a timely manner; and

(2) erred in transmitting the surcharge in a timely manner.

(c) If the commissioner accepts a filing as timely under subsection (b), the filing must, in addition to any penalties under IC 34-18-5-3, be accompanied by a penalty amount as follows:

(1) Ten percent (10%) of the surcharge, if the proof of financial responsibility and surcharge are received by the commissioner at least ninety-one (91) days and not more than one hundred twenty (120) days after the original effective date of the policy.

(2) Twenty percent (20%) of the surcharge, if the proof of financial responsibility and surcharge are received by the commissioner at least one hundred twenty-one (121) days and not more than one hundred fifty (150) days after the original effective date of the policy.

(3) Fifty percent (50%) of the surcharge, if the proof of financial responsibility and surcharge are received by the commissioner at least one hundred fifty-one (151) days and not more than one hundred eighty (180) days after the original effective date of the policy.

As added by P.L.1-1998, SEC.13. Amended by P.L.91-1998, SEC.21; P.L.111-1998, SEC.5; P.L.1-1999, SEC.69.

IC 34-18-3-6

Notification of qualification

Sec. 6. Within five (5) business days after the department of insurance receives the information required under section 2 of this chapter for the qualification of a health care provider, the commissioner shall notify the health care provider of the following:

(1) Whether the provider is qualified.

(2) If the provider is qualified, the date the provider becomes qualified.

As added by P.L.1-1998, SEC.13.

IC 34-18-3-7

Adoption of rules; minimum annual aggregate insurance amount

Sec. 7. (a) The commissioner shall adopt rules under IC 4-22-2 to establish the following:

(1) Criteria for determining, upon application, whether a corporation, limited liability company, partnership, or professional corporation is subject to IC 34-18-2-14(7) and thus is eligible to qualify as a health care provider under this chapter.

(2) The minimum annual aggregate insurance amount necessary for the corporation, limited liability company, partnership, or professional corporation to become qualified under IC 34-18-2-14(7).

(b) The criteria to be established by rule under subsection (a)(1) must include the identification of the health care purpose and function of the corporation, limited liability company, partnership, or professional corporation.

(c) The minimum annual aggregate insurance amount to be set by rule under subsection (a)(2) may not exceed five hundred thousand dollars ($500,000).

(d) The commissioner may require a corporation, limited liability company, partnership, or professional corporation that seeks to qualify under IC 34-18-2-14(7) and this chapter to provide information necessary to determine eligibility and to establish the minimum annual aggregate amount applicable to the corporation, limited liability company, partnership, or professional corporation.

As added by P.L.1-1998, SEC.13.